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6 BACKGRID USA, INC., and
BACKGRID LONDON LTD.,

10 BACKGRID USA, INC., and
11 BACKGRID LONDON LTD.,
12 *Plaintiffs,*

13 v.

14 HOT IN HERE, INC. d/b/a VLADTV,
and VLADIMIR LYUBOVNY,

15 *Defendants.*

Case No.: 2:24-cv-5751

**COMPLAINT FOR
COPYRIGHT INFRINGEMENT**

Jury Trial Demanded

17 Plaintiffs BackGrid USA, Inc. and BackGrid London Ltd., for their Complaint
18 against Defendants Hot in Here, Inc. and Vlad Lyubovny, allege as follows:

JURISDICTION

20 1. This action arises under the Copyright Act of 1976, Title 17 U.S.C. § 101
et seq. This Court therefore has jurisdiction over the subject matter of this action
22 under 28 U.S.C. § 1331 (federal question) and § 1338 (copyright).

PARTIES

Plaintiff BackGrid

25 2. Plaintiff BackGrid USA, Inc. (“BGUS”) is an entity organized and
existing under the laws of the State of California with its principal place of business in
27 Redondo Beach, California.

1 3. Plaintiff BackGrid London Ltd. (“BGUK”) is a private limited company
2 organized and existing under the laws of the country of the United Kingdom with its
3 principal place of business in London, England.

4 4. BGUS and BGUK are premier celebrity news and photo agencies that
5 provide the world's news outlets with real-time content from top photographers.
6 They also maintain libraries of photographs on a diverse range of subjects including
7 celebrities, music, sports, fashion, and royalty.

8 5. BGUS and BGUK license their photographs to leading magazines,
9 newspapers, and editorial clients, throughout the world, including in the United
10 States and in California.

11 6. BGUS and BGUK conduct business as syndicators of photos and photo
12 features of popular content. The business model is predicated on licensing the use of
13 work to many different licensees, each of which pays a fee to publish.

Joinder

15 7. Joinder of plaintiffs BGUS and BGUK is appropriate under Rule 20 of
16 the Federal Rules of Civil Procedure.

Defendants

18 8. On information and belief, defendant Hot in Here is a corporation
19 organized under the laws of the state of New Jersey and is doing business in California
20 under the name of VladTV (“VladTV”). According to its website (vladtv.com),
21 VladTV has its principal place of business in Calabasas, California, in this judicial
22 district.

23 9. VladTV is a media entity that holds itself out as “the world’s leading
24 source of celebrity interviews and news.”

25 10. On information and belief, VladTV owns and operates the Instagram
26 account @vladtv, publicly available at www.instagram.com/vladtv, and/or is
27 responsible for the content posted to that account.

1 11. On information and belief, VladTV owns and operates the website
2 publicly available at www.vladtv.com, and/or is responsible for the content posted on
3 that website.

4 12. Vlad Lyubovny is an individual. On information and belief, Mr.
5 Lyubovny is the Chief Executive Officer of VladTV and resides in Calabasas,
6 California, in this judicial district.

7 13. On information and belief, by virtue of his position as CEO, Mr.
8 Lyubovny controls VladTV, makes decisions on its behalf, and has the right and
9 ability to supervise the activity of the corporation, including any infringing activity.

Personal Jurisdiction and Venue

11 14. This Court has personal jurisdiction over defendant VladTV because its
12 principal place of business is in Calabasas, California, such that it can be said to be “at
13 home” in California and in this judicial district.

14 15. This Court has personal jurisdiction over defendant Lyubovny because
15 he resides in Calabasas, California, in this judicial district.

16. Venue in this judicial district is proper under 28 U.S.C. § 1400(a).

BACKGROUND FACTS

The Copyrighted Photographs

19 17. BGUS is the owner and copyright holder of two photographic images
20 (the “BGUS Images”) as follows:

21 a. BGUS Image 1 depicts musical artist Beyonce with her hair in
22 braids. BGUS Image 1 was registered with the United States Copyright Office
23 as Registration No. VA 2-058-497 (eff. July 17, 2017). BGUS obtained
24 ownership of this copyright, along with the right to sue for any infringement,
25 from AKM-GSI Media, Inc. by written assignment.

26 b. BGUS Image 2 depicts actor Ben Affleck kissing musical artist
27 Jennifer Lopez. BGUS Image 2 was registered with the United States
28 Copyright Office as Registration No. VA 2-256-317 (eff. June 21, 2021).

1 18. Both BGUS Image 1 and BGUS Image 2 were registered with the U.S.
2 Copyright Office within 90 days of first publication.

3 19. BGUK is the owner and copyright holder of a photographic image (the
4 "BGUK Image") depicting musical artist Sean Combs kissing influencer Joie Chavis.
5 The BGUK Image was registered with the United States Copyright Office as
6 Registration No. VA 2-277-869 (eff. Nov. 29, 2021). BGUK obtained ownership of
7 this copyright, along with the right to sue for any infringement, from Xposure Photo
8 Agency Inc. by written assignment.

9 20. The BGUK Image was registered with the U.S. Copyright Office within
10 90 days of first publication.

11 21. Collectively, BGUS Image 1, BGUS Image 2, and the BGUK Image are
12 referred to as the “Images.”

The Infringements

14 22. Neither BGUS nor BGUK licensed the Images to defendants.
15 Nevertheless, defendants used the Images without authorization or permission to do
16 so, and without paying a license fee.

17 23. Specifically, defendants or someone acting on their behalf copied each of
18 the Images from Internet sources—on information and belief including legitimate
19 licensees of plaintiffs—stored the Images on VladTV’s servers, and displayed the
20 Images on VladTV’s social medical account @vladtv on Instagram as well as on its
21 website vladtv.com.

22 24. Defendants' unauthorized uses of the Images continued and was ongoing
23 at the time this complaint was filed.

24 25. The Images are creative, distinctive, and—as evidenced by defendants'
25 use and misappropriation of them—valuable. Because of the Images' quality, visual
26 appeal, and celebrity subject matter, plaintiffs earned revenue from licensing them
27 and stood to gain more revenue from licensing.

1 26. In fact, all the Images were marketed and licensed as “Premium-
2 Exclusive” photographs. “Premium-Exclusive” photographs are likely to be
3 extremely popular and in high demand because they depict top celebrities or highly
4 newsworthy situations, or because they are available only from a single photo agency
5 (directly or through agents) in that no other photographers captured the celebrity or
6 event, or both. Premium-Exclusive photographs are more valuable and are licensed
7 for a higher fee, sometimes significantly higher (such as \$10,000 to \$50,000 or more,
8 and higher if the licensee wants a period of exclusivity where no other licensee can
9 display the photographs).

10 27. Defendants’ unauthorized use of the Images harmed the existing and
11 future market for them. Defendants’ website and Instagram posts made the Images
12 immediately available to VladTV’s followers and to the public, including consumers
13 of entertainment and fashion news—and especially news and images of the celebrity
14 subjects of the Images—who would otherwise be interested in viewing licensed
15 versions of the Images in the magazines, newspapers, and online publications that are
16 plaintiffs’ customers.

17 28. Defendants’ unauthorized use of the Images also harms plaintiffs’
18 business model by driving down the prices for legitimately licensed celebrity images
19 and driving away plaintiffs’ actual and potential customers. Plaintiffs’ customers—
20 among them, media companies who pay large license fees for celebrity visual
21 content—are less likely to purchase licenses, or pay as much for a license, when the
22 same visual content will be widely distributed simultaneously on publicly available
23 websites and social media.

24 29. In addition, defendants’ unauthorized uses of the Images are commercial
25 in nature. VladTV uses its Instagram feed for the purposes of promotion—
26 specifically, to promote brand awareness of its business interests and to attract and
27 drive users to its website where it derives revenue from advertisements.

1 30. Indeed, on information and belief, defendants specifically posted the
2 Images on Instagram to attract users to its website, as the posts included text directing
3 viewers to the “Link in bio” to see more. On information and belief, defendants knew
4 that because of the Images’ depictions of popular celebrities, users would be attracted
5 to view the Images and thus more likely to frequent its website.

6 31. As a media company, defendants operate in an industry in which
7 copyrights are prevalent and well-understood. Based on that knowledge, defendants
8 were aware of the importance of copyright protection and knew that they needed to
9 have but did not have permission to use the Images, and/or they acted recklessly by
10 posting the Images without determining the right to do so.

CLAIM ONE

(For Copyright Infringement, 17 U.S.C. § 501 - Against All Defendants)

13 32. Plaintiffs reallege and incorporate by reference the allegations contained
14 in the preceding paragraphs of this Complaint as if fully set forth here.

15 33. Plaintiffs are the authors and or/copyright owners of the protected
16 Images named above in this Complaint.

17 34. Defendants have reproduced, displayed, or otherwise copied the Images
18 without plaintiffs' authorization or license.

19 35. The foregoing acts of defendants infringed upon the exclusive rights
20 granted to copyright owners under 17 U.S.C. § 106 to display, reproduce, and
21 distribute their work to the public. Such actions and conduct constitute copyright
22 infringement in violation of 17 U.S.C. §§ 501 et seq.

23 36. Plaintiffs have complied in all respects with 17 U.S.C §§ 101 et seq. and
24 secured and registered the exclusive rights and privileges in and to the copyrights of
25 the above-referenced works in accordance with 17 U.S.C § 408.

26 37. Plaintiffs suffered damages as a result of defendants' unauthorized use of
27 the Images.

1 38. Having timely registered copyright in the Images, plaintiffs are entitled
2 to elect statutory damages under 17 U.S.C. § 412 and § 504(c), in an amount of not
3 less than \$750 or more than \$30,000 per infringement of each work registered before
4 the infringements.

5 39. Plaintiffs allege, on information and belief, that defendants' actions were
6 intentional or in reckless disregard of plaintiffs' copyrights, and that such actions
7 support an award of enhanced statutory damages for willful infringement under the
8 Copyright Act, 17 U.S.C. § 504(c)(2), in the sum of up to \$150,000 per infringed
9 work.

10 40. In the alternative, plaintiffs are entitled to recovery of their actual
11 damages and defendants' profits attributable to the infringement of the Images, under
12 17 U.S.C. § 504(b).

13 41. Within the time permitted by law, plaintiffs will make their election
14 between actual damages and profit disgorgement, or statutory damages.

15 42. Plaintiffs are also entitled to a discretionary award of attorney fees under
16 17 U.S.C. § 412 and § 505.

PRAYER FOR RELIEF

18 || WHEREFORE, plaintiffs request the following:

19 A. For a preliminary and permanent injunction against defendants and
20 anyone working in concert with them from further copying or displaying the Images;

21 B. For an order requiring defendants to account to plaintiffs for their profits
22 and any damages sustained by plaintiffs arising from the acts of infringement;

23 C. As permitted under 17 U.S.C. § 503, for impoundment of all copies of
24 the Images used in violation of plaintiffs' copyrights—including digital copies or any
25 other means by which they could be used again by defendants without plaintiffs'
26 authorization—as well as all related records and documents;

27 D. For actual damages and all profits derived from the unauthorized use of
28 the Images or, where applicable and at plaintiffs' election, statutory damages;

- 1 E. For an award of pre-judgment interest as allowed by law;
- 2 F. For reasonable attorney fees;
- 3 G. For court costs, expert witness fees, and all other costs authorized under
- 4 law;
- 5 H. For such other and further relief as the Court deems just and proper.

7 **JURY TRIAL DEMAND**

8 Plaintiffs demand a trial by jury of all issues permitted by law.

10 Dated: July 8, 2024

Respectfully submitted,

11 **PERKOWSKI LEGAL, PC**

12 By: /s/ Peter Perkowski

13 Peter E. Perkowski

14 Attorneys for Plaintiffs
15 BACKGRID USA, INC. and
BACKGRID LONDON LTD.